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VIA CM/ECF

February 22, 2022

Hon. Geoffrey W. Crawford  
Chief Judge, United States District Court,  
District of Vermont  
P.O. Box 478  
Rutland, VT 05702-0478

Re: *JD1, et al. v. Canisius College, et al.*  
W.D.N.Y. Case No. 1:21-cv-00521

Dear Judge Crawford:

On behalf of defendants Canisius College, Nathan Huckle, and William Maher (the “College defendants”), and with the Court’s prior permission (*see* Dkt. 27), we submit this response to the new allegations in plaintiffs’ proposed Amended Complaint (the “Proposed AC,” at Dkt. 28-1).

Allegedly in support of plaintiffs’ Seventh purported Cause of Action for alleged negligent hiring/supervision, the Proposed AC includes sixteen new paragraphs related to unfounded allegations pertaining to defendant Nathan Huckle’s prior employment with Brighton Central School District, relating to events allegedly occurring long before his hiring by the College. *See* Dkt. 28-1, ¶¶ 25-40.

As a threshold matter, none of these new allegations have legal relevance to the negligent hiring/supervision claim, because they do not address the pleading defect identified in the College defendants’ initial motion submission: there continues to be *no allegation that Nathan Huckle acted outside the scope of his employment* at Canisius College, and therefore these new allegations do not state a claim. Dkt. 12-1, Point V at p. 30; Dkt. 25, Point III at pp. 6-7.

Plaintiffs, moreover, make all these allegations “upon information and belief,” even though the law is well established that alleging facts “upon information and belief” is “insufficient unless the facts are peculiarly within the knowledge of the defendants.” *See, e.g., Renner v. Chase Manhattan Bank*, 1999 U.S. Dist. LEXIS 978, at 837 (S.D.N.Y. Feb. 3, 1999). Plaintiffs do not (and could not) take the position that these so-called facts are *peculiarly* within the College’s knowledge; on the contrary, plaintiffs allege that these facts were readily available to everyone, including the College (and, presumably, them).

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The Canisius defendants respectfully request that the Court deny plaintiffs' request for leave to file their Proposed AC, and grant the pending Motion to Dismiss (Dkt. 12) in its entirety.

Respectfully,

/s/ Thomas S. D'Antonio

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